



HERBERT
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JOHN O'DONNELL

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John O'Donnell is a Partner in the firm's Corporate Crime and Investigations Group.

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BACKGROUND

Prior to joining Herbert Smith Freehills, John spent ten years as an Assistant United States Attorney in the Criminal Division of the Southern District of New York, five of which were in the Office's securities fraud unit, nearly five years in the Enforcement Division at the Securities and Exchange Commission, and more than eight years in private practice. While working as a federal prosecutor he investigated and prosecuted cases involving securities and commodities fraud, including accounting fraud, insider trading, ponzi schemes, bribery and corruption and market manipulation, as well as money laundering, mail and wire fraud, and other violations of federal law.

John served as a Law Clerk for U.S. District Court Judge John E. Sprizzo in the U.S. District Court for the Southern District of New York, from 1989-1991. He graduated from Fordham University School of Law in 1989 with a J.D. (*cum laude*). He was an Associate Editor of the *Fordham Law Review*. He obtained a B.A. in History from Fordham College in 1986.

KEY SERVICES

[Sanctions](#)
[Anti-bribery and Corruption](#)

KEY SECTORS

[Financial Institutions](#)
[Government and Public Sector](#)

EXPERIENCE

John's practice focuses on the areas of white collar criminal defense and related regulatory proceedings, internal investigations, complex commercial litigation, and counseling clients on compliance with anticorruption laws. John has extensive trial and appellate experience, having served as lead counsel in more than seventeen federal jury trials and having briefed and argued more than a dozen appeals before the U.S. Court of Appeals for the Second Circuit.

Significant representations include:

- Retained by the Archdiocese of New York to conduct an investigation pursuant to *Vos Estis Lux Mundi* into abuse allegations made against the Bishop of the Diocese of Brooklyn
- Representing a NYSE-listed company in connection with DOJ and SEC investigations into potential violations of the FCPA
- Represented a group of clients in connection with US Congressional and Special Counsel investigations into alleged Russian influence in the 2016 US presidential election
- Representing Jefferies LLC and related entities in a federal RICO suit in the Southern District of New York arising out of the financing of certain privatized military housing projects
- Represented a Russian state-owned energy company in connection with a US DOJ FCPA investigation and prosecution of the company's US country head and contracting parties
- Represented a major international bank and seven of its present and former employees in connection with US DOJ and SEC bribery and fraud investigations and related criminal and civil litigations
- Serving as anti-bribery and compliance counsel for a US-based mining company with operations in Africa, Brazil and Australia
- Represented an energy trading brokerage company in a NYMEX investigation and resolution of charges of improper reporting of block trades
- Represented a French specialty chemicals company in connection with an internal investigation into suspected fraud and money laundering
- Advised an African energy company on an internal investigation into a whistleblower's

allegations of corruption

- Advised a major international bank on potential FCPA liability resulting from payments made to a foreign government official who was a featured speaker at a client event
- Represented Bank Hapoalim B.M., as a member of a group of creditors of failed commercial lending company, Oak Rock Financial, LLC
- Drafted compliance policies and procedures for a leading international supplier of construction materials, with a particular focus on FCPA issues
- Represented a senior executive of a financial services firm in connection with a DOJ investigation into the RMBS market
- Represented a number of employees of a publicly-traded company in connection with DOJ and SEC investigations and prosecutions of senior executives for accounting fraud
- Represented a witness in connection with testimony at trial of former New York State Senate Majority Leader Dean Skelos

Significant Investigations and Prosecutions

- *United States v. Louis Tomasetta and Eugene Hovanec*, 10 Cr. 1205 (PAC) (S.D.N.Y.) This is a securities fraud case in which the former Chief Executive Officer and Chief Financial Officer of a publicly traded corporation, Vitesse Semiconductor Corporation, were charged with criminal violations of the federal securities laws for their roles in a scheme to cause Vitesse to file false and misleading quarterly and annual reports with the SEC from 2001 to 2006. After two mistrials, the defendants pled guilty to felony obstruction of justice charges.
- *United States v. Paul Greenwood and Stephen Walsh*, 09 Cr. 722 (MGC) (S.D.N.Y.) This is a securities fraud case in which the former principals of a hedge fund, WG Trading Company LP, are charged with criminal securities fraud based upon allegations that they defrauded investors and misappropriated investor funds from 1996 to 2009. Both defendants were sentenced to significant terms of imprisonment.
- *United States v. Sandeep Aggarwal*, 13 Mag. 1877 (S.D.N.Y.) This case involved a research analyst being charged with tipping inside information to a former portfolio manager at SAC Capital, a major hedge fund that is also charged with insider trading. (*United States v. SAC Capital, et al.*, 13 Cr. 541 (LTS)). The defendant pled guilty and is

awaiting sentencing.

- *United States v. Craig Berkman*, 13 Cr. 477 (SAS) (S.D.N.Y.) This case involved the prosecution of Craig Berkman, a well-known venture capitalist and Oregon political figure, for his operation of a fraudulent investment scheme in which he represented to investors that their funds would be invested in pre-IPO shares of well-known technology stocks, but actually misappropriated the funds (including using the current investor funds to pay a settlement with investors who were defrauded in a prior scheme). Mr. Berkman pled guilty and was sentenced to a significant term of imprisonment.
- *United States v. Kline*, 12 Cr. 701 (SAS) (S.D.N.Y.), *United States v. Curtis*, 08 Cr. 183 (LAP) (S.D.N.Y.) and *United States v. Lesak*, 06 Cr. 408 (LAK) (S.D.N.Y.) This group of cases is part of a cross-border law enforcement operation targeting corrupt stock promoters who bribed stock brokers in order to get the brokers to convince their clients to buy the small cap stocks controlled by the promoters. These three defendants were all convicted of securities fraud for their participation in bribery schemes.
- *SEC v. Symbol Technologies, Inc., et al.*, CV 04-2276 (LDW) (E.D.N.Y.) This is a case involving a massive accounting fraud at a New York Stock Exchange listed company. There were parallel investigations with the U.S. Attorney's Office for the Eastern District of New York and the SEC. Ultimately, the Commission filed charges against the company and 13 individuals.
- *In the Matter of Russo Securities, Inc. and Kimberly Kent*, Release No. 44186. This matter involved an appeal by a broker-dealer and certain of its officers of an administrative law judge's determination that the broker dealer had willfully violated the Commission's net capital rule and that its president and financial principal had aided and abetted the firm's violations. The Commission issued a written opinion adopting the Division's arguments and affirming the administrative law judge's decision.
- *In the Matter of All-Tech Investment Group, Inc., et al.*, Release No. 44415. This was an administrative proceeding against a day trading firm and several of its officers alleging violations of the margin lending rules set forth in the Securities Exchange Act of 1934. The firm and the four individual defendants all agreed to a settlement.

Speaking Engagements

- Herbert Smith Freehills Annual Global Corporate Crime and Investigation Conferences in London, New York, Paris and Hong Kong (2015, 2016, 2017, 2018, 2019, 2020)

- Insider Trading Conferences (2015, 2016)

Publications

- "Cross-Border Overview: Maximizing Privilege Protection Under US and English Law," *The Global Investigations Review: Americas Investigation Review* (2016, 2018, 2019, and 2020)
- "US court rejects DOJ's expansive use of conspiracy for FCPA jurisdiction" *iLaw Fraud Intelligence Publication* (2018)
- "Cross-Border US tax enforcement against facilitators of tax evasion" *The Global Investigations Review: The Investigations Review of the Americas* (2017)
- "Managing cross-border investigations involving China and Hong Kong" *The Global Investigations Review: The Investigations Review of the Americas* (2017)

Admissions

- New York
 - U.S. District Court, Southern District of New York
 - U.S. District Court, Eastern District of New York
 - U.S. Court of Appeals for the Second Circuit
 - U.S. Supreme Court
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